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EXAMINER

TANG, KAREN C

ART UNIT	PAPER NUMBER
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2151

DATE MAILED: 12/28/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/775,170

Applicant(s)

SVOBODA ET AL.

Examiner

Karen C Tang

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-41 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-41 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 02/01/01 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. ____. |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

I. Claims 1-25, 29-31, and 36-38 are rejected under 35 U.S.C. 102(e) as being anticipated by Kaye (US 5,694,393).

1. Referring to Claim1, Kaye discloses in a networked communication system that does not require reliable networking connections and which includes a first communication node (N1) and a second communication node (N2 refer to Col 3, Lines 42-55), wherein the communication nodes employ wireless communication (refer to Col 4, Lines 40-45, where mobile is in the wireless network environment) when within communication range (refer to Col 7, Lines 42-60, where the nodes in the same coverage tree has a default connection, the connection is within the coverage area/range), a method for replicating data by employing opportunistic data transfer between the communication nodes to propagate redundant copies of the data (refer to Col 5, Lines 30-35), the method comprising the steps for: using a first monitor (monitoring party/subscriber M, Col 9, Lines 42-67) at the first node and a second monitor (monitored party/subscriber B, refer

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to Col 9, Lines 42-67, each nodes has monitoring functionalities) at the second node to determine when the first and second nodes are within communication range (refer to Col 8, Lines 1-5, 19-31), wherein at least one of the first and second nodes is mobile (N4, refer to Col 5, Lines 10-20); creating a dynamic connection between the first and second nodes while in communication range (coverage area) (refer to Col 7, Lines 42-60, where the nodes in the same coverage tree has a default connection, the connection is within the coverage area/range.); and replicating data across the dynamic connection (refer to Col 7, Lines 64-67, Col 8, Lines 1-67, and Col 9, Lines 1-7.).

2. Referring to Claim 2, Kaye discloses replicating includes comparing data stored locally at the first node with data stored locally at the second node (refer to Col 4, Lines 55-67, Col 5, Lines 19-50, Col 6, Lines 20-67, and Col 7, Lines 1-10).

3. Referring to Claim 3, Kaye discloses if the data stored at the first node includes information that is not stored at the second node, the step for replicating includes storing a copy of the non-stored information at the second node (refer to Col 4, Lines 55-67, Col 5, Lines 19-50, Col 6, Lines 20-67, and Col 7, Lines 1-10).

4. Referring to Claim 4, Kaye discloses wherein the non-stored information includes an instruction to delete information (refer to Col 6, Lines 65-67, Col 7, Lines 1-10, 19-22).

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5. Referring to Claim 5, Kaye discloses wherein the non-stored information includes an instruction to modify information (refer to Col 8, Lines 1-13).

6. Referring to Claim 6, Kaye discloses wherein the first node includes a first opportunistic data transfer protocol component (refer to Col 1, Lines 12-17, where nodes has to broadcast throughout the network, broadcast in the art is inherit that the nodes have the data transfer protocols to transmit data from one node to the other) and the second node includes a second opportunistic data transfer protocol component.

7. Referring to Claim 7, Kaye discloses wherein the first and second opportunistic data transfer components (refer to Col 1, Lines 12-17, where nodes has to broadcast throughout the network, broadcast in the art is inherit that the nodes have the data transfer protocols to transmit data from one node to the other) perform the steps for using the first (monitoring party/subscriber M, Col 9, Lines 42-67) and second monitor (monitored party/subscriber B, refer to Col 9, Lines 42-67) and for creating the dynamic connection (refer to Col 7, Lines 42-60, where the nodes in the same coverage tree has a default connection, the connection is within the coverage area/range).

8. Referring to Claim 8, Kaye discloses a plurality of nodes (N1-N12, refer to Col 3, Lines 43-55), and each nodes consists a monitor (managers/switch center, each nodes consists a manager/monitor, which register and communicate with the system , infrastructure, refer to Col 4, Lines 33-40, and Col 2, Lines 52-60, and Col 3, Lines 55-

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61) which using the first (N1) and second monitors (N2) and a third monitor (N3), at a third node (coverage node/control node, refer to Col 8, Lines 1-5, Lines 41-67) to determine when the first, second and third nodes are within communication range (coverage range, refer to Col 7, Lines 43-67 and Col 8, Lines 6-10), wherein the third node includes a third opportunistic data transfer protocol component (refer to Col 1, Lines 12-17, where nodes has to broadcast throughout the network, broadcast in the art is inherit that the nodes have the data transfer protocols to transmit data from one node to the other), and wherein at least one of the first, second and third nodes is mobile (N4, refer to Col 5, Lines 10-20); and including the third node in the dynamic connection (refer to Col 7, Lines 64-67, Col 8, Lines 1-67, and Col 9, Lines 1-7.).

9. Referring to Claim 9, Kaye discloses wherein the step for replicating data includes replicating data among the first (N4), second (N7) and third nodes (N8) (refer to Col 5, Lines 32-39).

10. Referring to Claim 10, Kaye discloses wherein when at least one of the first (a subscriber/node), second and third nodes is no longer within communication range (coverage range, refer to Col 7, Lines 43-67 and Col 8, Lines 6-10, leave the group/coverage area), excluding the at least one node from the dynamic connection (refer to Col 6, Lines 65-67. Col 7, Lines 1-5).

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11. Referring to Claim 11, Kaye discloses wherein when the at least one node (subscriber A) is again within communication range (coverage range, refer to Col 7, Lines 43-67 and Col 8, Lines 6-10), including the at least one node in the dynamic connection and continuing to replicate data (joining request) with at least one node across the dynamic connection (refer to Col 6, Lines 11-30, Col 5, Lines 20-40).

12. Referring to Claim 12, Kaye discloses wherein when the dynamic connection is disconnected (refer to Col 7, Lines 33-42, when subscribers change to different node, they disconnect the connection with that node, so the leave/disconnect request is generated) and the first node (N12, Fig 3, Col 5, Lines 32-40) is within communication range (coverage range, refer to Col 7, Lines 43-67 and Col 8, Lines 6-10), of a fourth node (N4, home node, Col 5, Lines 32-40) that includes a fourth opportunistic data transfer component and a fourth monitor (managers/switch center, each nodes consists a manager/monitor, which register and communicate with the system , infrastructure, refer to Col 4, Lines 33-40, and Col 2, Lines 52-60, and Col 3, Lines 55-61), performing the steps for: creating a second dynamic connection (new join request is the second dynamic connection is generated, at the new generated nodes) between the first and fourth nodes while the nodes are within communication range; and replicating data (refer to Col 7, Lines 64-67, Col 8, Lines 1-67, and Col 9, Lines 1-7.) across the second dynamic connection.

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13. Regarding to Claim 13, Kaye discloses wherein the fourth node (N4, Fig 1) is an intended archival system that includes a storage device (Control Node, which collect/storage responses, refer to Col 8, Lines 19-35, also, each nodes consist of a SWC, which consists of a database that can store information, refer to Col 3, Lines 60-67, and Col 4, Lines 1-35.).

14. Referring to Claim 14, Kaye discloses wherein if the data stored at the first node (N4) includes information (address of the home node) that is not preserved at the first node, the step for replicating includes storing an archival copy of the non-preserved information at the fourth node (N8, copy of the subscriber's detail, refer to Col 5, 30-40, and each node consists a copy of the group record, refer to Col 6, Lines 31-40), and wherein when the non-preserved information is stored at the fourth node, initiating instructions from the fourth node to the first node to deleted (de-register, refer to Col 5, Lines 40-50) the non-preserved information (updated information, refer to Col 7, Lines 5-10).

15. Referring to Claim 15, Kaye discloses wherein the fourth node is (N12, refer to Fig 1) mobile (MS1).

16. Referring to Claim 16, Kaye discloses wherein when the first (N12) and fourth nodes (N4) are no longer within communication range, disconnecting the second dynamic connection (delete identity from the list, refer to Col 6, Lines 65-67, Col 7, Lines 1-30).

17. Referring to Claim 17, Kaye discloses wherein when the first node (N1, Fig 1) is within communication range (coverage range, refer to Col 7, Lines 43-67 and Col 8, Lines 6-10) with a fifth node (N7, Fig 1) that includes a fifth monitor (managers/switch center, each nodes consists a manager/monitor, which register and communicate with the system , infrastructure, refer to Col 4, Lines 33-40, and Col 2, Lines 52-60, and Col 3, Lines 55-61) and a fifth opportunistic data transfer protocol component (refer to Col 1, Lines 12-17, where nodes has to broadcast throughout the network, broadcast in the art is inherit that the nodes have the data transfer protocols to transmit data from one node to the other), performing the steps for: creating a third dynamic connection (refer to Fig 7, an Jn.Nfy connection/dynamic connection is being sent between the two nodes) between the first and fifth nodes while in communication range; and replicating data (refer to Col 7, Lines 64-67, Col 8, Lines 1-67, and Col 9, Lines 1-7.) across the third dynamic connection, including deleting any non-preserved information (refer to Col 7, Lines 19-22) at the fifth node.

18. Referring to Claim 18, Kaye discloses wherein the second (N4) and fifth nodes (control node) are the same node (refer to Col 8, Lines 41-67).

19. Referring to Claim 19, Kaye discloses a dynamically mobile data communication system for use in moving data and facilitating the arrival of data at an intended archival location (refer to Col 1, Lines 1-15, intended archival location is interpret as a service

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area in this reference), the system comprising: a plurality of communication nodes capable of employing wireless communication (refer to Fig 1, Mobile station is MS1, and plurality of communication nodes N1-N13), wherein at least one of the nodes is mobile, a storage device located at each of the nodes (each nodes consists a storage devices SWC, refer to Col 3, Lines 55-67, Col 4, Lines 15-35. Database is able to store information); and an opportunistic data transfer protocol component (a routing table refer to Col 4, Lines 15-25, consists a transfer information, and refer to Col 4, Lines 33-40 a transfer protocols which is consists in each nodes.) located at each of the nodes, wherein when two or more of the nodes are within communication range (refer to Fig 7, Nodes 1-4, and 7-12 are within the communication range, so between each node, there is a dynamic connection such as Jn.Nfy and Jn. Ack created between nodes), the component at each of the two or more nodes creates a dynamic connection for communication among the two or more nodes so long as the two or more nodes are within communication range.

20. Referring to Claim 20, Kaye discloses at least one of the pluralities of communication nodes (N4, Fig 4) is an intended archival system (Control Node, which collect/storage responses, refer to Col 8, Lines 19-35).

21. Referring to Claim 21, Kaye discloses wherein at least one of the pluralities of communication nodes (N4) gathers data (Control Node, which collect/storage responses, refer to Col 8, Lines 19-35).

22. Referring to Claim 22, Kaye discloses wherein when the dynamic connection (Jn.Req. or Jn Ack. refer to Fig 7) is created between at least two nodes (N8 to N7, N8 to N11, refer to Fig 7) of the plurality of nodes (N1-N4 and N7-12), data is replicated (copy of subscriber's details, refer to Col 5, Lines 32-50) among the at least two nodes to provide a redundant copy of data at each of the at least two nodes.

23. Referring to Claim 23, Kaye discloses wherein the data is transmitted in segments (Refer to Col 6, Lines 49-65 where N12 initiate a notification/message and pass to N9, and N9 pass to N8, N7, and N4, so to reach from N12 to N4, there are a few segments of data are passed from source to destination).

24. Referring to Claim 24, Kaye discloses wherein the intended archival system (Control Node, which collect/storage responses, refer to Col 8, Lines 19-35) propagates an instruction to one or more nodes (N1- N13) of the plurality of nodes to delete data from each of the one or more nodes (refer to Col 7, Lines 19-22).

25. Referring to Claim 25, Kayes discloses wherein the instructions to delete are propagated upon creating a subsequent dynamic connection between two or more nodes of the plurality of nodes (refer to Fig 7, Nodes N1-4, and N7-12), wherein at least one of the two or more nodes includes the instruction to delete and issues the instruction (refer to Col 7, Lines 10-22) to each of the two or more nodes of the

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subsequent dynamic connection (refer to Fig 7, dynamic connections are Jn.Nfy, and Jn.Ack).

29. Referring to Claim 29, Kaye discloses the computer program product comprising (refer to Col 4, Lines 10-15): a computer-readable medium (Switch Center, Refer to Col 3, Lines 55-60) carrying computer executable instructions (message, refer to Col 4, Lines 19-26) for performing the method, wherein the method comprises the steps for: determining whether a first communication node and a second communication node are within communication range (coverage range, as default/determined nodes in the coverage range, refer to Col 7, Lines 42-60), wherein if the first and second nodes are within communication range, performing the steps for: creating a dynamic network (Jn.Nfy and Jn.Ack between N7 and N4, refer to Fig 7) between the first and second nodes; determining whether the first and second nodes are privileged for data replication (when the nodes are within the coverage area, refer to Col 7, Lines 42-60); if the first and second nodes are determined to be privileged for data replication, performing the steps for: comprising data stored at the first node (N4) with data stored at the second node (N12); if the data stored at the first node includes information that is not stored at the second node, replicating the non- stored information for storage at the second node (refer to Col 5, Lines 20-40); and if the data stored at the second node includes information not included in the data stored at the first node, transferring the non-included information for storage at the first node (refer to Col 6, Lines 20-40); and

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if the first and second nodes are not determined to be privileged for data exchange, performing the step for disconnecting the dynamic network (leave a group, the leave request is generated, then the connection is disconnected when the information is removed from the local list, refer to Col 6, Col 65-67, Col 7, Lines 1-10).

30. Referring to Claims 30 and 37, Kaye discloses wherein the non-stored information (registration request, refer to Col 5, Lines 50-67) and the non-included information (copy of subscriber's details, refer to Col 5, Lines 50-67) include one or more commands to modify data (refer to Col 5, Lines 20-40).

31. Referring to Claims 31 and 38, Kaye discloses wherein the commands to modify include one or more commands to delete data (refer to Col 7, Lines 19-22).

36. Referring to Claim 36, Kaye discloses where at least one of the nodes is mobile (N11, refer to Col 1), method for replicating data by employing opportunistic data transfer (refer to Col 1, Lines 12-17, where nodes has to broadcast throughout the network, broadcast in the art is inherit that the nodes have the data transfer protocols to transmit data from one node to the other), the method comprising the acts of: determining whether a first communication node and a second communication node are within communication range (coverage range, as default/determined nodes in the coverage range, refer to Col 7, Lines 42-60), wherein the first includes a plurality of communication node is mobile (N11, refer to Col 1), and wherein if the first and second

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nodes are within communication range (coverage range, as default/determined nodes in the coverage range, refer to Col 7, Lines 42-60), performing the acts of: creating a dynamic network between the first and second nodes (Jn.Nfy and Jn.Ack between N7 and N4, refer to Fig 7); determining whether the first and second nodes are privileged for data replication (Col 7, Lines 42-60, when the coverage are on roam, the dynamic coverage switch is off, and it is inherit that the nodes are not privileged for data replication); if the first and second nodes are determined to be privileged for data replication (when the nodes are within the coverage area, refer to Col 7, Lines 42-60), performing the acts of: comparing data stored at the first node (N4) with data stored at the second node (N12); if the data stored at the first node includes information that is not stored at the second node, replicating the non-stored information for storage at the second node (refer to Col 5, Lines 20-40); and if the data stored at the second node includes information not included in the data stored at the first node, transferring the non- included information for storage at the first node (refer to Col 6, Lines 20-40); and if the first and second nodes are not determined to be privileged for data exchange, performing the act of disconnecting the dynamic network (leave a group, the leave request is generated, then the connection is disconnected when the information is removed from the local list, refer to Col 6, Col 65-67, Col 7, Lines 1-10).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

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(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

II. Claims 26-28, 32-35, and 39-41 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kaye (US 5,694,393) in view of Jackowski et al hereinafter Jackowski (US 6,141,686).

1. Referring to Claim 26, Kaye discloses the communication system has capability to anticipate the traffic density, refer to Col 4, Lines 1-15 and data are transfer in the high capacity. Kaye also discloses the data is transferred to the desired location. (refer to Fig 7, N7 to N4)

Kaye does not expressly indicate the traffic was high priority.

Jackowski discloses the system has capability to determine the traffic priority (abstract)

At the time of the invention, it would have been obvious to a person of ordinary skill in the art to combine both Kaye and Jackowski's invention because Kaye discloses the system has the capability to anticipate the traffic density, thus, it would be more efficient if system to determine the priority base on the traffic density in able to avoid the traffic congestion.

2. Referring to Claim 28, Kaye indicate the communication network is in the mobile/cellular environment, refer to Col 1, Lines 55-67. It is well known in the art that in the cellular/wireless environment that the data communication is transfer in the real-time.

3. Referring to Claims 27, 35 and 41, Kaye discloses wherein the secure link includes one of a cellular link (Fig 1, mobile station, MS1, it is known that with mobile/cellular technology, the RLP Radio Link Protocol link is implemented within the OSI layer inherently), and a satellite link (Radio, refer to Col 3, Lines 55-62).

4. Referring to Claims 32 and 39, Kaye indicate the comparing data by examining whether or not the information in the node contains the registration information (refer to Col 6, Lines 20-40).

Kaye does not indicate comparing comparing data headers.

Jackowski indicate the to examine the data header (refer to Col 2, Lines 1-10)

At the time of the invention, it would have been obvious to a person of ordinary skill in the art to combine both Kaye and Jackowski's invention because Kaye indicate the idea of comparing data. It would only be obvious to compare the header for data information.

5. Referring to Claim 33, Kaye indicate the comparing data by examining whether or not the information in the node contains the registration information (refer to Col 6, Lines 20-40).

Kaye does not indicate comparing file directory information.

Jackowski indicate the use of IP address field, which is inherently consists the file directory information.

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At the time of the invention, it would have been obvious to a person of ordinary skill in the art to combine both Kaye and Jackowski's invention because Kaye indicate the idea of comparing data. It would only be convenience to compare the file directory information if the information is coming from the Internet protocol.

6. Referring to Claims 34 and 40, Kaye discloses the communication system has capability to anticipate the traffic density, refer to Col 4, Lines 1-15 and data are transfer in the high capacity. Kaye also discloses the data is transferred to the desired location. (refer to Fig 7, N7 to N4)

Kaye does not expressly indicate the traffic was high priority.

Jackowski discloses the system has capability to determine the traffic priority (abstract). He also indicates using the TCP/IP (refer to Col 2, Lines 20-31) which is the secure link to transmit the data. It is well known in the art that TCP/IP has the error checking ability, which the TCP/IP would retransmit information if there is an error occur at the destination or during transmission.

At the time of the invention, it would have been obvious to a person of ordinary skill in the art to combine both Kaye and Jackowski's invention because Kaye discloses the system has the capability to anticipate the traffic density, thus, it would be more efficient if system to determine the priority base on the traffic density in able to avoid the traffic congestion.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

US 6,260,120 (Blumenau et al. discloses storage mapping and partitioning among multiple host processors in the presence of login state changes and host controller replacement).


Contact

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Karen C Tang whose telephone number is (571)272-3116. The examiner can normally be reached on M-F 7 - 3.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Zarni Maung can be reached on (571)272-3939. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

KT


ZARNI MAUNG
PRIMARY EXAMINER